

UNITED STATES DISTRICT COURT  
DISTRICT OF NORTH DAKOTA  
EASTERN DIVISION

Sentry Insurance Company, as subrogee of	)	
Sanders Metal Products, Inc.,	)	Case No. _____
	)	
Plaintiff,	)	
	)	
vs.	)	<b><u>COMPLAINT</u></b>
	)	
The United States of America	)	
	)	
Defendant.	)	

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Plaintiff, by and through their undersigned counsel, for their Complaint against Defendant, respectfully alleges as follows:

**PARTIES**

1. Sentry Insurance Company is an insurance company that has its principal place of business located at 1800 North Point Drive, Stevens Point, WI 54481. Sentry Insurance Company is authorized to provide insurance in North Dakota.
2. Sanders Metal Products, Inc. is a corporation organized under the laws of North Dakota and has its principal place of business at 5001 County Road 81 N, Fargo, ND 58102-7405.
3. The United States of America is the appropriate defendant under the Federal Tort Claims Act (28 U.S.C. §2671, *et. seq.*) for the tort claims in this Complaint.

**JURISDICTION AND VENUE**

4. This Court has jurisdiction over all claims in this case pursuant to 28 U.S.C. §1346(b)(1).
5. The acts or omissions giving rise to the claims in this case occurred in the District of North Dakota. Thus, venue is proper under 28 U.S.C. §1402(b).

## **FACTS**

6. On or about March 4, 2021, Isidiro Vargas, an employee of Sanders Metal Products, Inc., was involved in a motor vehicle collision with Kayla Jamerson at the intersection of 46<sup>th</sup> Street SE and 168<sup>th</sup> Avenue SE in Cass County, North Dakota.
7. The collision occurred when Kayla Jamerson failed to obey a posted traffic control device and yield the right-of-way to Isidiro Vargas.
8. At the time of the collision, Isidiro Vargas was operating a 2019 Chevrolet Silverado owned by Sanders Metal Products, Inc. and hauling a 2014 Load Trail Gooseneck trailer owned by Sanders Metal Products, Inc., which was loaded with a crane and other property belonging to Sanders Metal Products, Inc.
9. Upon information and belief, at the time of the collision, Kayla Jamerson was an employee of the United States Geological Survey and was operating a motor vehicle owned by the United States General Services Administration.
10. On or about April 15, 2021, Plaintiff submitted a notice of claim to the United States Geological Survey. *See Exhibit 1.*
11. On or about March 18, 2022, Plaintiff received a letter from the United States Department of the Interior denying the claim. *See Exhibit 2.*

## **CAUSE OF ACTION**

### **(NEGLIGENCE)**

12. Plaintiff reasserts and incorporates by reference all preceding paragraphs.
13. Upon information and belief, at all times relevant hereto, Kayla Jamerson was acting within the scope of her employment.

14. Kayla Jamerson had a duty to act with reasonable care while operating a motor vehicle, including, but not limited to, keeping a proper lookout and complying with posted traffic signals.
15. Kayla Jamerson breached this duty by failing to comply with a posted traffic signal and yield right-of-way to Isidiro Vargas.
16. As a direct and proximate result of Kayla Jamerson's breach of duty, Plaintiff has suffered property damage and loss.
17. Plaintiff is entitled to damages against Defendant United States of America for negligence to the full extent allowed under North Dakota law and the Federal Tort Claims Act in an amount to be determined at trial.
18. Under the Federal Tort Claims Act, Defendant United States of America is liable for these actions.

#### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff respectfully requests the following relief:

- a. That judgment be entered in favor of Plaintiff on its Complaint;
- b. An award for damages in an amount to be determined at trial; and
- c. Such other relief as the Court deems just and appropriate.

#### **JURY DEMAND**

Plaintiff hereby demands a trial by jury consisting of the minimum number of jurors as are allowed by law.

Dated: September 8, 2022

FLOM LAW OFFICE, P.A.

By: /s/ Kathryn E. Nekola  
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Kathryn E. Nekola #08340  
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ATTORNEYS FOR PLAINTIFF

**CERTIFICATE OF SERVICE**

I hereby certify that on September 8, 2022, a true and correct copy of the foregoing COMPLAINT was filed electronically with the Clerk of Court through ECF.

Dated: September 8, 2022

FLOM LAW OFFICE, P.A.

By: /s/ Kathryn E. Nekola

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